The Writ of Prohibition: Jurisdiction in Early Modern English Law, Indexes to Vols. 1-3

Charles Montgomery Gray

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The Writ of Prohibition: Jurisdiction in Early Modern English Law
Charles M. Gray

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Tithes, General discussion…… V. I, p. xxxiii-xxxix.
  Many of the procedural and jurisdictional problems in these volumes arose from tithe suits. Substantive questions of tithe law are beyond the scope of Vols. I-III. The reader can, however, get an impression of the variety of tithe suits and of defendants' claims why tithes were not due.

Tithes (1) The staple tithes, grain and hay, sometimes appear in the cases and are likely to be the subject of ones in which the product is not reported. Only suits for other products (which present more tithe-law problems than grain and hay) are indexed. Vol. III, Sect. I.F (p. 119 ff) is about a feature of tithe law only applicable to grain and hay.
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Tithes (2) (a) Prescriptive commutation or modus decimandi……………. V. II, p. 87-89, 109-112, 112-116, 131, 151-152, 166, 172-175; V. III, p. 27-28, 80.
  Note: Persons sued for tithes very commonly claimed that the tithe was commuted. The Prescriptive claim is the commonest form of claim for commutation. There are roughly 40 instances of this in Vol. I, rarely of intrinsic legal interest. Leafing through these cases would give a sense of the different kind of modi claimed.
  The context of Vols. II and III, on the other hand, allow for significant discussion of the modus as such.)

Tithes (2) (b) Composition Real…………………….. See Composition real.

Tithes (2) (c) Commutation by Contract…………….. V. I, p. 63, 65.
  Tithe payers and recipients could simply contract for a commutation (for any time up to the limit of their lives). Because these bargains made a difficulty for Prohibitions, they appear in this book.
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(b) Land owned by ecclesiastical institutions (could be exempt by prescription in non decimandi).………… V. II, p 100-103.
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Tithes (4) Claims that no tithes were due resting on allegation that the person suing for them was not incumbent………… V. I, p. 62, 218, 234, 360; V. II, p. 122-124, 127-129, 160-174; V. III, p. 213-214, 220-222, 226, 256.
   Note: Related are claims that the person suing for tithes, though incumbent in some parish, mistakenly alleged that the produce in question was grown in his parish.

Cf. Bounds of Parish.

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<td>(Supremacy Act, Sect. xviii of which is the basis for the High</td>
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<td>Commission)</td>
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<td>(Uniformity Act, by which various offenses against ecclesiastical</td>
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<td>discipline are made secular offenses)</td>
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<tr>
<td>5 Eliz., c. 9</td>
<td>p. 80;</td>
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<tr>
<td>(Perjury and compulsion of witnesses)</td>
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<tr>
<td>13 Eliz., c. 10</td>
<td>p. 326</td>
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<tr>
<td>(Fraud to evade liability for dilapidations)</td>
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<tr>
<td>13 Eliz., c. 12</td>
<td>p. 63, 131;</td>
<td>p. 122, 161, 393-394</td>
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<td>(Imposing secular penalties on breaches of discipline by clergymen)</td>
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<td>18 Eliz., c. 3</td>
<td>p. 51</td>
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<tr>
<td>(Reputed fathers of bastards)</td>
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<tr>
<td>27 Eliz., c. 8</td>
<td>p. 101</td>
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<td>(Writs of error to review King’s Bench decisions)</td>
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<td>31 Eliz, c. 6</td>
<td>p. 234-235</td>
<td>p. 127, 375, 388, 400.</td>
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<td>(Simony)</td>
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<td>(Punishing coventicles)</td>
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